

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, JULY 30, 2003
MAINE EMS CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON SEPTEMBER 3, 2003**

MEETING MINUTES

Present: R. Doughty, P. Knowlton, C. Pillsbury, A. Azzara

Staff: D. White, D. Kinney

AG: L. Yustak Smith

1. Call To Order: The meeting was called to order at 09:39 a.m.

A. Additions/Deletions to the Agenda – Update on Case 02-08 (White)

2. Investigations

A. Request for Action – Case # 03-08

The Committee entered executive session for the purpose of discussing case #03-08:

***Motion: To enter executive session for the purpose of discussing Case #03-08
(Doughty; Knowlton – motion carries)***

The Committee entered executive session at 9:40 a.m. and exited at 9:57 a.m.

Motion: That the committee recommends that Licensee's Maine EMS license be summarily revoked by the Board; that the aforementioned recommendation is based upon Licensee's conviction for, Sexual Abuse of a Minor, Class D in violation of M.R.S.A. 17-A §254; that the underlying conduct that led to the conviction involved sexual relations by the Licensee, who was 38 years of age with a male juvenile who had not reached 16 years of age; that aggravating circumstances include the age difference between Licensee and the victim, the existence of one of the factors listed in 17-A M.R.S.A. §257 (factors aiding in predicting high-risk sex offenders for sentencing purposes) and that licensed EMS providers are in a position of public trust; and that the committee finds that Licensee is currently on probation and has not been sufficiently rehabilitated to warrant the public trust; and (Pillsbury; Knowlton – motion carries).

B. Informal Conference – Case # 03-06

The Committee entered executive session for the purpose of discussing case #03-06:

***Motion: To enter executive session for the purpose of discussing Case #03-06
(Doughty;Knowlton – motion carries)***

The Committee entered executive session at 10:03 a.m. and exited at 10:52 a.m.

Motion: That the committee finds in case #03-06 that that Licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.5 – Acting in ways which are dangerous or injurious to the public, and §11.A.7 (a) Incompetent practice - A licensee shall be deemed incompetent in the practice if the licensee has engaged in conduct which evidences a lack of ability or fitness to discharge the duty owned by the licensee to a client, patient, or the general public; that the violations are based upon Licensee's conduct that led to, and the November 13, 2002, conviction for, Assault, Class D in violation of M.R.S.A. 17-A §207(1); that aggravating circumstances include that it was an assault upon another person and occurring as a result of a domestic argument; that mitigating circumstances include that Licensee has participated in counseling since the time of the assault, that he is attending a Batterers Intervention Program, that information received indicates that the assault constituted an isolated incident without likelihood of recurrence, that Licensee is out of the domestic situation in which the assault occurred and that Licensee has an unblemished record of EMS licensure for over 15 years; That the Committee proposes to resolve this matter by consent agreement with Licensee; that provisions of the consent agreement include that Licensee will provide a discharge summary from his counselor(s) and from the Batterers Intervention program; that Licensee will sign any releases necessary for the Board to obtain counseling/discharge summaries; that Licensee will pay the sum of \$75.00 to Maine EMS to cover the cost of State Bureau of Identification checks to be performed during the term of the consent agreement; and that Licensee will surrender any EMS license issued should the applicant be charged with any crime in any state or Federal court, term of said consent agreement to be until June 1, 2005; (Doughty; Knowlton - motion carries).

C. Informal Conference – Case # 03-01

The Committee entered executive session for the purpose of discussing case #03-01:

***Motion: To enter executive session for the purpose of discussing Case #03-01
(Doughty;Knowlton – motion carries)***

The Committee entered executive session at 11:08 a.m. and exited at 12:25 p.m.

Motion: That the committee finds in case #03-01 that the licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 Violating any of the provisions of 32 M.R.S.A., Chapter 2-B, 11.A.17 Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted to provide; that the violations are based upon Licensee’s June 23, 2002, administration of Albuterol to a patient which is not a skill or technique allowed at the Licensee’s EMT-Basic level, Licensee’s July 1, 2002, assisting a patient with the patient’s own Albuterol without first contacting medical control, which is a contrary to Maine EMS Protocol, and the Licensee’s October 18, 2002 administration of Activated Charcoal to a patient which is not a skill or technique allowed at the Licensee’s EMT-Basic level; that aggravating circumstances include that the administration of Albuterol is clearly not an EMT-Basic skill and that administration of Albuterol in that setting may not have been indicated based upon the patient’s reported condition; that mitigating circumstances exist as to the administration of Activated Charcoal because of EMS systemic confusion as to whether Activated Charcoal may be administered by EMT-Basic providers; that the Committee proposes to resolve this case by issuing Letters of Guidance to Licensee in regards to the July 1, 2002 incident and the October 18, 2002 incident and by entering into a consent agreement regarding the June 23, 2002 incident; that terms of the consent agreement include that Licensee agrees to a 90 day suspension of her EMT-Basic license, all but 30 days suspended, effective upon execution of the agreement, a \$1000.00 fine, all suspended due to Licensee’s personal situation and the loss of income during the suspension period, completion of a continuing education class in Protocol review within 60 days of the executed agreement, and submission to the Committee of a 500-word-minimum research paper about Albuterol to include pharmacology, indications, contraindications and use in accordance with Maine EMS Protocols; that Licensee agrees to the surrender of her Maine EMS license if Licensee is found to have violated any Maine EMS Rules during the term of the consent agreement; and that the term of the consent agreement shall be 3 years (Doughty; Azzara, motion carries).

D. Informal Conference – Case # 03-09, #03-10, & 03-11

The Committee entered executive session for the purpose of discussing case #s 03-09, 03-10 and 03-11:

Motion: To enter executive session for the purpose of discussing Case #03-09, 03-10 and 03-11 (Doughty; Knowlton – motion carries)

The Committee entered executive session at 12:37 a.m. and exited at 12:50 p.m.

The minutes reflect that the subject of case 03-09 did not attend the informal conference.

Motion: That the committee finds in case #03-09 that the licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 - Violating any of the provisions of 32 M.R.S.A., Chapter 2-B and §11.A.17 - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted to provide; that the violations are based upon Licensee’s practice of EMS patient care during the period of time from August 1, 2002 to March 4, 2003, during which time Licensee did not hold a valid Maine EMS license; that mitigating circumstances exist because Licensee had completed required training for relicensure prior to the July 31, 2002, expiration of Licensee’s license; that the Committee proposes to resolve this case by entering into a consent agreement with Licensee; that terms of the consent agreement include that Licensee agrees to the surrender of his Maine EMS license if Licensee is found to have violated any Maine EMS Rules during the term of the consent agreement; and that the term of the consent agreement shall be 5 years (Doughty; Pillsbury, motion carries).

Motion: That the committee finds in case #03-10 & #03-11 that the licensees violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 Violating any of the provisions of 32 M.R.S.A., Chapter 2-B, and 11.A.21 - Aiding or abetting the practice of emergency medical care by a person not duly licensed under 32 M.R.S.A., Chapter 2-B, and who represents himself to be so; that the violations are based upon the licensees allowing the unlicensed practice of EMS patient care during the period of time from August 1, 2002 to March 4, 2003, by a person responding on behalf of the licensees who did not hold a valid Maine EMS license; that mitigating circumstances exist in that the licensees have instituted service policies to ensure no recurrence of unlicensed practice; and that the committee directs that a Letter of Guidance be issued to each licensee to resolve the cases (Doughty; Knowlton, motion carries).

E. Informal Conference – Case # 03-02 & 03-03

The Committee entered executive session for the purpose of discussing cases # 03-02 and #03-03. It is noted that this informal conference was held via videoconferencing with the licensees.

Motion: To enter executive session for the purpose of discussing Case #03-02 and #03-03 (Pillsbury; Knowlton – motion carries)

The Committee entered executive session at 1:07 p.m. and exited at 1:58 p.m.

Motion: That the committee finds in case #03-02 that the licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 - Violating any of the provisions of 32 M.R.S.A., Chapter 2-B and §11.A.17 - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted to provide; that the violations are based upon Licensee’s practice of EMS patient care during the period of time from September 1, 2002 to October 9, 2002, during which time Licensee did not hold a valid Maine EMS license; that aggravating

circumstances in this case include that Licensee knew she did not hold a valid Maine EMS license, the continuing education hours that Licensee used to renew her license were not completed until after the expiration of her license, and that Licensee provided direct patient care on multiple calls, including Advanced Life Support skills, during the period of time that she did not hold a valid license; that mitigating circumstances include the relatively short period of time that Licensee practiced without a valid license, there was no harm to patients because of Licensee's practice without a license, the length of service Licensee has provided to the EMS system, that Licensee has not previously been subject to disciplinary action by Maine EMS, Licensee's acceptance of responsibility for her actions, and that Licensee is not currently practicing due to personal circumstances; that the Committee proposes to resolve this case by entering into a consent agreement with Licensee; that terms of the consent agreement include that Licensee agrees to the surrender of her Maine EMS license for a period of 90 days, all but 30 days suspended effective upon execution of the agreement, that Licensee agrees to the surrender of her license if she is found to have violated any Maine EMS Rules during the term of the consent agreement; and that the term of the consent agreement shall be 3 years (Pillsbury; Knowlton, motion carries).

Motion: That the committee finds in case #03-03 that the licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.2 – Violating a lawful order, regulation or rule of the Board, §11.A.3 Violating any of the provisions of 32 M.R.S.A., Chapter 2-B, and 11.A.21 - Aiding or abetting the practice of emergency medical care by a person not duly licensed under 32 M.R.S.A., Chapter 2-B, and who represents himself to be so; that the violations are based upon the licensees allowing the unlicensed practice of EMS patient care during the period of time from September 1, 2002 to October 9, 2002, by a person responding on behalf of the licensee who did not hold a valid Maine EMS license; that mitigating circumstances exist in that licensee has instituted a service policy to ensure no recurrence of unlicensed practice; and that the committee directs that a Letter of Guidance be issued to the licensee to resolve the case (Doughty; Pillsbury, motion carries).

F. Informal Conference – Case # 01-14

The Committee entered executive session for the purpose of discussing case # 01-14

Motion: To enter executive session for the purpose of discussing Case # 01-14 (Doughty; Knowlton – motion carries)

The Committee entered executive session at 2:15 p.m. and exited at 3:47 p.m.

Motion: That the committee finds in case #01-14 that the licensee violated Maine EMS Rules (dated July 1, 2000) §11.A.7 (a) Incompetent practice - A licensee shall be deemed incompetent in the practice if the licensee has engaged in conduct which evidences a lack of ability or fitness to discharge the duty owned by the licensee to a client, patient, or the general public; that the findings are based upon evidence that Licensee committed theft of

Federal government property while employed as a medical unit leader for the U.S. Forest Service in August, 2000; that an aggravating circumstance is that Licensee was in a position of trust at the time of the theft; mitigating circumstances include that Licensee accepts responsibility for his actions, that he cooperated with authorities conducting the Federal investigations and that Licensee expresses remorse for his conduct; that the Committee proposes to resolve this case by entering into a consent agreement with Licensee; that terms of the consent agreement include that Licensee agrees to a 90 day suspension of his EMT-Paramedic license, all but 30 days suspended, effective upon execution of the agreement, a \$1500.00 fine, all but \$100.00 suspended; that Licensee will pay the sum of \$165.00 to Maine EMS to cover the cost of State Bureau of Identification checks to be performed during the term of the consent agreement; that Licensee agrees to the surrender of his Maine EMS license if he is charged with any crime in any state or Federal court during the term of this consent agreement and that the term of said consent agreement shall be 5 years (Doughty; Knowlton, motion carries).

F. Informal Conference – Case # 02-01

The Committee entered executive session for the purpose of discussing case #-02-01.

Motion: To enter executive session for the purpose of discussing Case #02-01 (Pillsbury; Knowlton – motion carries)

The Committee entered executive session at 4:01 p.m. and exited at 5:40 p.m.

Motion: To continue this matter to a later time and to ask that the Attorney General negotiate a consent agreement with Licensee's legal counsel (Doughty; Pillsbury – motion carries).

G. Update on Case # 02-08

Staff reported that correspondence had been received from Rick Petrie, regional coordinator for Northeastern Maine EMS indicating the regions belief that issues have been resolved between the two departments involved and that they are developing a solid working relationship

Motion: That the Committee is satisfied that the issues that gave rise to case # 02-08 have been resolved by the parties involved and that the case be dismissed (Doughty; Knowlton – motion carries)

3. Applications

A. George Harris

Applicant Harris reported a 1999 conviction for Failure to Submit to Arrest, Class D, a 1999 civil violation for Sale and Use of Drug Paraphernalia and a 1999 civil violation for Possession of Drug Paraphernalia. Mr. Harris provided documentation concerning the conviction and violations as well as letters of recommendation

Motion: That the Committee has reviewed the Application of George Harris IV and directs that Mr. Harris receive a Maine EMS license and a letter of guidance concerning his conviction and civil violations (Pillsbury; Knowlton – motion carries).

B. Shawn Evans

Applicant Evans was convicted in 1996 and 2002 for Driving While Intoxicated in the State of New York. Mr. Evans provided documentation concerning the convictions.

Motion: That the committee finds that Applicant violated Maine EMS Rules (dated July 1, 2000) §11.A.5 – Acting in ways which are dangerous or injurious to the public; that the violation is based upon Applicant's 1996 and 2000, convictions for Driving While Intoxicated; that the Committee proposes to resolve this matter by consent agreement with Applicant; that provisions of the consent agreement include that Applicant will submit to evaluation at Applicant's expense by a substance abuse counselor and will provide the report of the counselor to the Board; that the Board reserves the right to refuse to issue a license to Applicant based upon the report of the substance abuse counselor; that Licensee will pay the sum of \$105.00 to Maine EMS to cover the cost of State Bureau of Identification checks to be performed during the term of the consent agreement; and that Licensee will surrender any EMS license issued should the applicant be charged with any alcohol related crime in any state or Federal court, term of said consent agreement to be 3 years (Doughty; Pillsbury - motion carries).

C. Lyle Witchley

Applicant Witchley reported a 2002 violation for Possession of a Controlled substance (marihuana) in the State of New Hampshire. Mr. Harris provided documentation concerning the conviction and violations as well as letters of recommendation

Motion: That the Committee has reviewed the Application of Lyle Witchley and directs that Mr. Witchley receive a Maine EMS license and a letter of guidance concerning his violation (Doughty; Pillsbury - motion carries).

4. Other - Criminal Convictions Matrix – Not taken up.

5. Next Meeting

The next meeting was scheduled for Wednesday, September 3, 2003 after the Maine EMS Board meeting.

6. Adjourn – The meeting was adjourned at 6:15 p.m.

Respectfully submitted,

Drexell White, Licensing Agent